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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/645,352

08/21/2003

Zenon Rypan

6750

Zenon Rypan
2636 W. Winona
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7590

12/30/2008

EXAMINER

LEUNG, PHILIP H

ART UNIT	PAPER NUMBER
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3742

MAIL DATE	DELIVERY MODE
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12/30/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/645,352	Applicant(s) RYPAN, ZENON	
	Examiner Philip H. Leung	Art Unit 3742	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19 and 31-46 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 31-46 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In the claim section, the sentence "Claim numbers of new claims 21-33 are renumbered for 32-44 respectively, as it was recommended by an Examiner." has been deleted as inaccurate and unnecessary. Moreover, "Claim 20 (cancelled)." has been changed to "Claims 20-31 (cancelled)." In order to reflect the status of claims 21-31.
2. The title of the invention will be changed to "Ellipsoidal Countertop Microwave Oven" as suggested by the applicant, upon allowance of the application.
3. The new sheet of drawing has not been entered as a formal drawing because it is not required by the Examiner and there are no corresponding changes in the specification to reflect the changes and additions in the drawings. Furthermore, new drawings include new matter not shown in the original disclosure, for instance, the door operation shown in the drawings.
4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
5. Claims 19 and 32-46 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the

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relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The amendment to claim 19 and many new claims include new matter not supported by the original disclosure. More specifically, in claim 19, the use of the term "oval outer shell" and the term "front oval door" are broader than the term "ellipsoidal" as "oval" can be broadly as "a rectangle having rounded corner". Furthermore, the limitation "microwaves emitted spherically from antenna" (in claims 19 and 35) is also not supported as the term "emitted spherically" has not been shown and defined in the original disclosure. Furthermore, the term "barrel" in claim 35 and the term "said barrel-shaped sidewall" were also not in the original disclosure. The following limitations are also new matter not supported by the original disclosure: "the center-bound slopes of said grooves 11B are leant under different angles: the slopes of most centrally placed rings are more steep while the most outer ones are slopping And central zone of the cavity" in claim 39; "radially emitted from a single antenna 420 on three different zones - create a non-uniform microwave density throughout the cavity, concentrating bottom spots upper part of cavity" in claim 40 together with entire claim 41; the term "including door's window glass and microwave shield" in claim 42; the limitation "door 34 opens and closes in an up-and down manner automatically by pressing a button on control panel, and closes pushing the door down by a hand" in claim 43; the limitation "at least one digital video camera on control panel's liquid crystal display 74" in claim 45 and "a liquid crystal display to watch over the cooking food" in claim 46. At least all these limitations are found to contain new matter NOT supported by the original disclosure and MUST be cancelled. If the applicant disagrees, he must specifically point out at where in the original specification shows an original support for each of the limitations. Again, the applicant

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is cautioned that no new matter can be introduced in amended the application including the claims, specification and/or the drawings.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 19 and 32-46 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are not clear because the limitation "microwaves emitted spherically from antenna" in claim 19 has not been defined in the specification. The term "said barrel-shaped sidewall" in claim 37 and the term "said corrugated part" in claim 38 have no proper antecedent basis. In claim 39, the term "slopping" at line 3 is misspelled. Clarification and correction are required but no new matter can be introduced.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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9. Claims 19, 32-37 and 42-46, as far as the claims are understood and proper, are rejected under 35 U.S.C. 103(a) as being unpatentable over Knight (GB 2 266 039), in view of Chang (US, 3,691,338) (both cited previously) and Kusunoki et al (US 4, 019,009) (newly cited).

As far as the claims excluding new matter are understood, Knight shows a microwave oven comprising a case (1, 2, 3), a microwave cavity with a turntable 13, a machine compartment 2, a front door 4 for inserting and removing food, as shown in the drawings the outer housing of the microwave oven is substantially in the shape of an ellipsoid as claimed because the cavity is cylindrical with a flat top and bottom as claimed. The applicant shows in the specification, that the ellipsoid includes cylindrical shape or spherical shape oven cavity. Therefore, it is submitted that the use of spherical shape or cylindrical shape would a matter of engineering equivalence as shown by Chang. In Chang, it shows that the microwave heating oven can be either in the shape of a cylinder (Figures 1-3) or a sphere (Figure 5). It would have been obvious to an ordinary skill in the art at the time of the invention to modify Knights to choose a cylindrical or spherical shape as the microwave cavity depending on the overall desired microwave heating pattern in accordance to its application and the load to be heated, in view of the teaching of Chang. Furthermore, Knights does not show the machine compartment with the antenna being located on the top. Kusunoki shows a microwave oven with a machine compartment being located on the bottom (Figures 2 and 3) side (Figures 14 and 21) and top (Figures 15 and 16). It would have been obvious to an ordinary skill in the art at the time of the invention to modify Knights to locate the machine compartment and the antenna at a suitable location including on the top of the microwave cavity according to the overall desired microwave heating pattern depending on its application and the load to be heated, in view of the teaching of Kusunoki (see col. 9, lines 25-

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63). In regard to claims 42 and 43, the use of window glass and microwave shield as a microwave sealing door screen is well known in the art of microwave ovens. In regard to claims 45 and 46, the use of video camera and liquid crystal display in an oven for monitoring the heating operation is well known in the art.

10. Patentability of claims 40-41 and 43 cannot be determined as they include new matter not disclosed. However, in regard to claims 38 and 39, Claesson et al (US 4,816,632) and You (US 5,880,442) cited in the previous Office action still render the claimed structure as originally disclosed unpatentable as a matter of engineering variations because the references show the well known use of a microwave oven chamber floor with rings and ridges to achieve uniform heating result. In regard to claims 40 and 41, the claimed "three different zones" is clearly new matter, not shown or understood from the original specification. Similar, the claimed door opening structure in claim 43 clearly has no support in the original specification. Again, all these new matter must be cancelled.

11. Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip H. Leung whose telephone number is (571) 272-4782.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tu Hoang can be reached on (571)-272-4780. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Philip H Leung/
Primary Examiner, Art Unit 3742

P.Leung/pl
2-18-2008

Notice of References Cited	Application/Control No. 10/645,352	Applicant(s)/Patent Under Reexamination RYPAN, ZENON	
	Examiner Philip H. Leung	Art Unit 3742	Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
*	A	US-4,019,009	04-1977	Kusunoki et al.	219/746
	B	US-			
	C	US-			
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
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FOREIGN PATENT DOCUMENTS

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	N					
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	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
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	X	

*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.